



September 29, 2009

TO: Co-chairpersons Senator Dr. Seng and Representative Lykam and Members of the Care of Animals in Commercial Enterprises Study Committee

FROM: Doug Adkisson, Senior Legal Counsel, Legislative Services Agency

RE: Background Information — Licensing and Registration Requirements for Persons Who are Involved in the Care of Animals as Part of an Enterprise Related to Keeping, Maintaining, Breeding, Transporting, Selling, Adopting, and Using for Research of Nonagricultural Animals.

A. INTRODUCTION

This memorandum discusses federal and state licensing and registration requirements imposed upon a person involved in an enterprise which handles or cares for nonagricultural animals, in order to provide for minimum standards for treatment, including the handling and care of animals that are kept in facilities, or commercially transported, and that are used for breeding, kenneling, commercial sale, adoption, exhibition, and research.

B. FEDERAL LICENSING AND REGISTRATION REQUIREMENTS

1. General. The federal "Animal Welfare Act" (AWA)¹ provides for the humane treatment of certain animals that are used for research, bred for commercial sale, exhibited to the public, or commercially transported. The statutes² and regulations³ adopted by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Care (APHIS/AC), require persons involved in these endeavors to be either licensed or registered, and establishes requirements for recordkeeping, minimum standards of care, and inspections.

¹ Pub. L. No. 89-544, § 1(a) as added by Pub. L. No. 94-279, § 2 provides "That this Act [enacting Title 7, ch. 54] may be cited as the 'Animal Welfare Act'."

² The relevant provisions are published in 7 U.S.C. ch. 54. All references to the United States Code were accessed through the website of the Cornell University Law School LLI/Legal Information Institute, as of the publication date of this memorandum. The institute posts the version currently published by the United States Government Printing Office, National Records and Archives Administration (January 5, 2009, publication date). http://www.law.cornell.edu/uscode/html/uscode07/usc_sec_07_00002131----000-.html

³ The relevant provisions are published in 9 C.F.R., Ch. 1, Subch. A, Pts. 1-4. All references to the Code of Federal Regulations were accessed through using the website of the United States Government Printing Office, National Records and Archives Administration (January 1, 2009, publication date). http://www.access.gpo.gov/nara/cfr/waisidx_09/9cfrv1_09.html

2. Regulated Animals. The AWA protects animals based upon both status and use. Generally, the AWA covers any live or dead animal so long as two conditions are met: first, the animal must be warm-blooded, specifically including dogs, cats, nonhuman primates, guinea pigs, and hamsters (fish and other cold-blooded animals are excluded from coverage) and second, such animals must be for a specific purpose which is limited to research, testing, experimentation, exhibition, or as a pet.⁴ The AWA excludes birds, rats and mice bred for use in research, horses not used for research, and farm animals.⁵ A farm animal is any domestic species of cattle, sheep, swine, goats, llamas, or horses which are normally and historically kept on a farm.⁶ Therefore, the AWA applies to rabbits, mink, and chinchillas when they are a pet but are not covered when used solely for purposes of providing meat or fur.⁷ All dogs are covered by the Act, including those used for hunting, security, or breeding.⁸

3. Regulated Activities. The AWA regulates the treatment of animals by certain persons, classified as a "dealer," "exhibitor," "carrier," "intermediate handler," or "research facility," all as defined in the federal statute.

a. Licenses. Two types of persons are required to obtain a federal license: dealers and exhibitors.

(1) Dealers. A dealer is a person who transports an animal for compensation or who buys or sells an animal for a specific purpose as provided in the Act (i.e., for research, teaching, exhibition, or use as a pet).⁹ A dealer specifically includes a person who buys and sells dogs used for hunting, security, or breeding purposes.¹⁰

(a) Persons Classified as Dealers. Note, APHIS/AC interprets the AWA's definition of "dealer" to include persons who buy or sell pets on the wholesale market, persons who breed pets, persons who breed animals or sell animals to research facilities, persons acting as brokers who provide for the purchase or sale of animals even though they do not take physical possession, persons operating auctions where animals are sold, persons acting as promoters who give animals away as prizes, persons buying or selling exotic or wild animals, and persons who supply dead animal parts as specimens.¹¹

(b) Persons Not Classified as Dealers. APHIS/AC interprets the AWA as exempting a person who sells animals directly to pet owners on a retail basis, including by mail¹² and the AWA specifically exempts retail pet stores.¹³ According to APHIS/AC, the exemption applies to a retail pet store operating independently or as part of a chain store, and once any chain outlet fails to qualify for the exemption, the entire company

⁴ 7 U.S.C. § 2132(g).

⁵ Id.

⁶ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, §1.1.

⁷ Id.

⁸ 7 U.S.C. § 2132(g).

⁹ 7 U.S.C. § 2132(f) and (g).

¹⁰ 7 U.S.C. § 2132(f).

¹¹ United States Department of Agriculture, Animal Health and Plant Inspection Service, *Licensing and Registration Under the Animal Welfare Act, Guidelines for Dealers, Exhibitors, Transporters, and Researchers*, p. 2-3 (Issued April 1992, Slightly revised April 2004, and Reformatted for the web August 2005), herein cited as USDA, *Licensing and Registration Under the Animal Welfare Act*. Last accessed on the APHIS website on September 22, 2009.
http://www.aphis.usda.gov/animal_welfare/downloads/aw/awlicreg.pdf.

¹² USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 4.

¹³ 7 U.S.C. § 2132(f).

and all its outlet stores are considered to be a dealer.¹⁴ By statute, "dealer" also excludes a so-called hobby breeder who either does not sell wild animals, dogs, or cats and who derives \$500 or less from the sale of those other animals during a calendar year¹⁵ or who maintains a total of three or fewer breeding female dogs, cats, or small exotic or wild mammals (e.g., hedgehogs) born and raised on their premises, and who sells only the offspring for use as pets or exhibition.¹⁶ A similar exemption applies to a person who sells fewer than 25 dogs or cats per year so long as they were born and raised on the person's premises for use in research, teaching, or testing.¹⁷

According to APHIS, a boarding kennel (a facility housing animals on behalf of others) is not considered a dealer.¹⁸ Similarly, a pound or animal shelter is not considered a dealer.¹⁹ A pound or shelter is a facility that accepts or seizes animals for the purpose of caring for them, placing through adoption or carrying out a purpose related to law enforcement, regardless of whether it is operated for profit.²⁰ Note, however, that the federal law does require that pounds and private animal shelters and research facilities hold dogs and cats for at least five days to allow for recovery by their owners or adoption by a new owner before they can be sold to a dealer.²¹

(2) Exhibitors. An "exhibitor" is a private or public person who displays an animal to the public for compensation and includes carnivals, circuses, and zoos operated for profit or not for profit.²² Thus, a private collector who does not exhibit to the public is exempt.²³ A retail pet store is not an exhibitor just as it is not a dealer.²⁴ An exhibitor also does not include state and county fairs, livestock shows, rodeos, purebred dog and cat shows, and other events intended to advance agricultural arts and sciences.²⁵ APHIS/AC regulations expressly exempt horse and dog racing events.²⁶ According to APHIS/AC, an exhibition does not include a game or hunting preserve, presumably because the activity is more closely related to sport than display.²⁷ A person may still be classified as an exhibitor even if the person buys and sells animals so long as it is a minor part of the person's business and is done in order to maintain or add to a collection.²⁸

b. Registration. Two general classes of persons are required to be registered: so-called animal transporters, including carriers and intermediate handlers, and research facilities.²⁹

¹⁴ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 4.

¹⁵ 7 U.S.C. § 2132(f); USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 4.

¹⁶ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.1(a)(3)(iii).

¹⁷ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.1(a)(3)(iv).

¹⁸ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 4.

¹⁹ Id.

²⁰ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

²¹ 7 U.S.C. § 2158(a)(1).

²² 7 U.S.C. § 2132(h).

²³ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 7.

²⁴ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

²⁵ 7 U.S.C. § 2158(h).

²⁶ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

²⁷ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 7.

²⁸ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

²⁹ 7 U.S.C. § 2136.

(1) Animal Transporters. The AWA does not specifically refer to animal transporters but APHIS uses the term to describe two categories of persons engaged in some part of moving animals, common carriers (carriers) and intermediate handlers.³⁰

(a) Carriers. A carrier is an airline, railroad, motor carrier, shipping line, or similar enterprise which is engaged in the business of transporting animals for hire.³¹ A person, other than a carrier who moves an animal by contract, may be considered a dealer; a so-called contract carrier.³² APHIS/AC recognizes an exemption for a so-called animal taxi (e.g., an individual who transports private pets to and from a veterinarian or groomer) or a private person who transports their pet (e.g., as carry-on baggage).³³

(b) Intermediate Handlers. An intermediate handler is a person who takes custody of an animal in connection to its movement in commerce, and includes freight forwarders and freight handlers as well as boarding kennels that ship or receive animals during shipment in commerce.³⁴ Note, an intermediate handler includes an agency or instrumentality of the United States or a state or a state's local government.³⁵

(2) Research Facilities. A research facility is a person (e.g., school, institution, or organization), that uses or intends to use live animals in research, tests, or experiments.³⁶ In order to be regulated, the person engaged in such activity must either purchase or transport a live animal or receive an award from the United States for purposes of carrying out research, tests, or experiments.³⁷ Registration requirements apply to state or locally administered institutions although they do not apply to elementary or secondary schools,³⁸ federally controlled institutions,³⁹ or research institutions that perform functions related to the production of food or fiber or that use domestic farm animals.⁴⁰ Although a federal research facility is not required to be licensed as a dealer or exhibitor, it must comply with standards of care applicable to other research facilities.⁴¹ A state or locally administered research facility or a private research facility that exhibits an animal must be licensed as an exhibitor, but only a private research facility that sells an animal must be licensed as a dealer.⁴²

4. Fees. A person regulated by the AWA as a dealer or exhibitor is responsible for paying an annual license fee. A carrier, intermediate handler, or research facility regulated by the AWA is not required to pay a registration fee.⁴³ In all cases an applicant for a license must submit a \$10 application fee in addition to the

³⁰ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 5; 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.25.

³¹ 7 U.S.C. § 2132(j).

³² USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 5.

³³ *Id.*

³⁴ *Id.*

³⁵ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

³⁶ 7 U.S.C. § 2132(e).

³⁷ *Id.*

³⁸ *Id.*

³⁹ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.30(a).

⁴⁰ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 9.

⁴¹ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 9. See 9 C.F.R., Ch. 1, Subch. A, Pt. 2, §§ 2.37 and 2.38.

⁴² USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 8-9.

⁴³ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 1. See 9 C.F.R., Ch. 1, Subch. A, Pt. 2, Subpts. B and C.

initial license fee.⁴⁴ A licensee applying for a renewal or a change in license class must submit a different fee.⁴⁵

a. Dealers — Two Classes of Licenses. For dealers, there are two classes of licenses, Class "A" and Class "B," which are issued on an annual basis. Class "A" licensees are breeders who deal only in animals that they breed and raise.⁴⁶ Class "B" licensees are dealers other than Class "A" licensees, regardless of whether they take physical control of an animal or hold an animal in a facility, and include brokers, bunchers, and operators of auction sales.⁴⁷ For each class of license the amount of the license fee is based on sales of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, during the person's preceding business year (calendar or fiscal).⁴⁸

(1) Class "A" Licenses. A Class "A" licensee (a dealer who is a breeder) is required to pay a license (and renewal) fee based on 50 percent of the total gross amount derived from the sale of animals.⁴⁹

(2) Class "B" Licenses. A Class "B" licensee (a dealer other than a breeder) is required to pay a license (and renewal) fee based on the total amount received from the sale of the animals less the amount paid by the dealer for the animals.⁵⁰

DEALER LICENSE FEES⁵¹

Amount Calculated from Sales for Both "A" and "B" Classes		Amount		
		When First Applying		When Renewing or Changing Classes
Over	But Not Over	Application	Initial	
\$0	\$500	\$10	\$30	\$40
\$500	\$2,000	\$10	\$60	\$70
\$2,000	\$10,000	\$10	\$120	\$130
\$10,000	\$25,000	\$10	\$225	\$235
\$25,000	\$50,000	\$10	\$350	\$360
\$50,000	\$100,000	\$10	\$475	\$485
\$100,000	-----	\$10	\$750	\$760

b. Exhibitors — Class "C" License. An exhibitor is required to be issued a Class "C" license⁵² and must pay a license fee based on the greater of the following:

⁴⁴ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.6(a).

⁴⁵ Id.

⁴⁶ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

⁴⁷ 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1. See USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 1-2.

⁴⁸ USDA, *Licensing and Registration Under the Animal Welfare Act*, at p. 1.

⁴⁹ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.6(b)(1).

⁵⁰ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.6(b)(2).

⁵¹ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.6(c). Table 1.

⁵² 9 C.F.R., Ch. 1, Subch. A, Pt. 1, § 1.1.

(1) **Animals Owned at the Time of Application.** The number of animals which the exhibitor owned, held, or exhibited at the time the application license is signed and dated.

(2) **Animals Owned During the Previous Year.** The number of animals which the exhibitor owned, held, or exhibited during the previous year.⁵³

EXHIBITOR LICENSE FEES⁵⁴

Amount Calculated from Animals Owned, Held or Exhibited		Amount		
		When First Applying		When Renewing or Changing Classes
Over	But Not Over	Application	Initial	
1	5	\$10	\$30	\$40
6	25	\$10	\$75	\$85
26	50	\$10	\$175	\$185
51	500	\$10	\$225	\$235
500	--	\$10	\$300	\$310

C. IOWA LICENSING AND REGISTRATION REQUIREMENTS

1. **General.** Iowa's animal welfare Act was enacted in 1974 in House File 550⁵⁵ and codified in its present Code Chapter 162 in 1975, and has not been drastically amended since that time. According to the bill's explanation, the Act is based on model legislation proposed by the United States Animal Health Association.⁵⁶

a. **Department of Agriculture and Land Stewardship.** Code Chapter 162 is administered by the Department of Agriculture and Land Stewardship (DALs) under its Animal Industry Bureau.⁵⁷ Code Chapter 162 and rules adopted by the department require certain persons involved in the care of animals be licensed by or registered with the state, and like federal law establishes requirements for recordkeeping, minimum standards of care, and inspections.⁵⁸

b. **Relationship with Federal Law.** Note, the Iowa law, enacted many years prior to the AWA, uses somewhat different terminology when regulating persons caring for animals. The AWA does not expressly provide for federal regulatory preemption, and recently the Iowa Court of Appeals in an unpublished opinion found that Iowa may concurrently regulate the care of animals under Code Chapter 162.⁵⁹

⁵³ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2(b)(5).

⁵⁴ 9 C.F.R., Ch. 1, Subch. A, Pt. 2, § 2.6(c). Table 2.

⁵⁵ 1974 Iowa Acts, ch. 1148. To search bills considered by the General Assembly, visit its website: <http://contentdm.legis.state.ia.us/cdm4/search.php>.

⁵⁶ For the association's website, see: <http://www.usaha.org/>.

⁵⁷ For DALs website, see: <http://www.agriculture.state.ia.us/animalIndustry.asp>.

⁵⁸ 21 IAC ch. 61. To access Iowa statutes and rules visit the General Assembly's website: <http://www.legis.state.ia.us/IowaLaw.html>.

⁵⁹ *Black Hawk County v. Jacobsen*, No. 2-081/ 01-0875 (Filed July 3, 2002). To see the online "as is" version of the case visit the Iowa State Bar Association's website: <http://www.iowabar.org/IACOURTOFAPPEALS.nsf/9db187f4b2a6140186256dab0057d0c0/43c2cca020728dad86256dab0059c829!OpenDocument>.

2. Regulated Animals — Generally Limited to Dogs and Cats. Code Chapter 162 limits the scope of animals subject to regulation differently than the AWA. For almost all purposes Code Chapter 162 protects animals which are either dogs or cats.⁶⁰ However, Code Chapter 162 does recognize that pounds keep other animals and covers all "vertebrate animals" kept by a pet shop, and specifically including dogs, cats, rabbits, rodents, nonhuman primates, birds, fish, but excluding livestock.⁶¹

3. Regulated Activities. Code Chapter 162 regulates the treatment of dogs and cats by a person classified as a boarding kennel or commercial kennel, commercial breeder, dealer, public auction, pet shop, pound, animal shelter, or research facility.⁶²

a. Licenses. Code Chapter 162 requires that a person operating as a boarding kennel or commercial kennel, commercial breeder, dealer, public auction, or pet shop be issued a state license. Note, the AWA requires that a promoter giving an animal as a prize must be issued a dealer's license. Code Chapter 162 does not regulate such persons. However, Code Chapter 717E prohibits the award of a pet as a prize.⁶³ Unlike federal law, Code Chapter 162 does not regulate carriers. Under Code Chapter 162, the following persons are required to be licensed:

(1) Dealers. A dealer is a person who is engaged in the business of buying for resale or selling or exchanging any number of dogs or cats as a principal or agent.⁶⁴

(2) Commercial Breeders. A commercial breeder is a person engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats regardless of whether the person keeps, raises, or boards the dogs or cats. There is an exception for a person who keeps three or fewer breeding dogs or cats. A person who breeds or keeps more than three breeding greyhounds for purposes of pari-mutuel racing but does not sell them is still considered a commercial breeder.⁶⁵

(3) Kennels. Code Chapter 162 regulates two types of kennels: boarding kennels and commercial kennels.

(a) Boarding Kennels. A boarding kennel is a person, other than a pound or animal shelter, who provides dogs or cats with care for consideration.⁶⁶

(b) Commercial Kennels. A commercial kennel is a person who performs grooming, boarding, or training services for dogs or cats in return for a consideration.⁶⁷

(4) Public Auctions. A public auction is a person who sells dogs or cats at auction to the highest bidder.⁶⁸

(5) Pet Shops. A pet shop is a person who buys or sells vertebrate animals presumably at retail.⁶⁹ There are two exceptions: First, where the person receives less

⁶⁰ Iowa Code § 162.1(1), and 21 IAC 67.1. See also definition of "boarding kennel" in Iowa Code § 162.2(5), "commercial kennel" in Iowa Code § 162.2(7), "commercial breeder" in Iowa Code § 162.2(6), "dealer" in Iowa Code § 162.2(8), "public auction" in Iowa Code § 162.2(15), "pound" in Iowa Code § 162.2(13), "animal shelter" in Iowa Code § 162.2(3), or "research facility" in Iowa Code § 162.2(16). Compare with the broader definition of "pound" in Iowa Code § 162.2(13) and "pet shop" in Iowa Code § 162.2(12).

⁶¹ Iowa Code §§ 162.1(1), 162.2(12), and 162.2(17). See also 21 IAC 67.1.

⁶² See note 60.

⁶³ See Iowa Code § 717E.2.

⁶⁴ Iowa Code §§ 162.2(8) and 162.7.

⁶⁵ Iowa Code §§ 162.2(6) and 162.8.

⁶⁶ Iowa Code §§ 162.2(5), 162.2(11), and 162.9.

⁶⁷ Iowa Code §§ 162.2(7), 162.2(11), and 162.6.

⁶⁸ Iowa Code §§ 162.2(11), 162.2(15), and 162.6.

than \$500 from the sale of vertebrate animals during a 12-month period and second, where the person sells or exchanges less than six vertebrate animals during that same period.⁷⁰

b. Registration. Iowa law provides for registration in lieu of licensure. Like the federal system, DALs provides for the registration of persons due to their status. In addition, DALs provides for the registration of persons who are federally licensed.

(1) Status. A person who is a pound or animal shelter or a research facility is required to be registered with rather than licensed by DALs, and operates subject to a certificate of registration.

(a) Pounds and Animal Shelters. A pound includes a facility operated by the state or a political subdivision including a municipal corporation or a privately operated facility operated under contract, organized for the prevention of cruelty to animals and which specifically harbors and seizes stray, homeless, or abandoned dogs and cats (along with other animals).⁷¹ Similarly, an animal shelter is a nonprofit corporation such as a humane society, animal welfare society, or society for the prevention of cruelty to animals, devoted to the welfare, protection, and humane treatment of dogs or cats and which provides care to such animals.⁷² Note, DALs may allow a registered pound or animal shelter to engage in the sale of dogs or cats under their respective licenses.⁷³

(b) Research Facilities. A research facility is a school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine; a hospital, diagnostic or research laboratory, or other educational or scientific establishment engaged in the medical or biological investigation or instruction.⁷⁴ Presumably, a federal research facility would not be subject to state registration requirements.

(2) Federal Licensure. A person who is a dealer, commercial breeder, commercial kennel, or public auction is exempt from state licensure requirements if the person is issued a federal license, presumably as a dealer or perhaps as an exhibitor (see discussion above). Once a person obtains either federal license, DALs' issuance of a certificate of registration appears pro forma.⁷⁵

(a) Application. Even though Iowa law provides a federal licensure exemption for commercial kennels, the AWA does not specifically provide for license of these persons. Note, Iowa law does not provide a registration in lieu of licensure option for boarding kennels or pet shops, both of whom are also not federally licensed.

(b) No Federal Reciprocity. A person issued a federal license may elect to be issued a corresponding state license or a certificate of registration in lieu of the state

⁶⁹ Iowa Code § 162.2(11) and 162.2(12). However, see 1988 Iowa Acts, ch. 1186, § 1 in which the definition of "pet shop" was amended by striking language referring to a sale "to the general public."

⁷⁰ Iowa Code § 162.2(12)(a) and (b).

⁷¹ Iowa Code §§ 162.2(13) and 162.3.

⁷² Iowa Code §§ 162.2(3) and 162.4.

⁷³ Iowa Code §§ 162.3 and 162.4.

⁷⁴ Iowa Code §§ 162.2(16) and 162.10.

⁷⁵ Iowa Code § 162.11(1).

license.⁷⁶ There is no reciprocal arrangement with the federal government. A person who obtains a state license is not exempt from federal licensure requirements.

4. a. DALS Regulatory Authority. Generally, DALS is provided statutory authority to regulate a boarding kennel, commercial kennel, commercial breeder, dealer, pet shop, or public auction that has been issued a state license and an animal shelter, pound, or research facility that has been issued a certificate of registration. The relevant Code Section 162.13 reads in part as follows:

A certificate of registration may be denied to any pound or animal shelter and a license or certificate of registration may be denied to any public auction, boarding kennel, commercial kennel, research facility, pet shop, commercial breeder, or dealer, or an existing certificate or license may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate under this chapter or if the feeding, watering, cleaning, and housing practices at the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, research facility, or those practices by the commercial breeder or dealer, are not in compliance with this chapter or with the rules adopted pursuant to this chapter. The premises of each licensee or certificate holder shall be open for inspection during normal business hours.

b. Exceptions. Code Section 162.11 carves out several exempted classes from regulation based on status or the issuance of a federal license.

(1) Status. Several persons are exempt from regulation without qualification, including veterinary hospitals and noncommercial kennels.

(a) Veterinary Hospitals. The veterinary hospital must be under the immediate supervision of a licensed veterinarian. However, the veterinary hospital is regulated as a boarding kennel or commercial kennel and "subject to the licensing or registration requirements" if it engages in boarding or grooming activities associated with those establishments.⁷⁷

(b) Noncommercial Kennels. A noncommercial kennel is part of a private household where dogs or cats are kept for one of the following specific allowed purposes: the hobby of the householder, hunting, practice training, exhibitions, or guarding the householder's property.⁷⁸

(2) Federal Licensee. A person who has been issued a certificate of registration as a federal licensee is exempt from state licensure. The statute appears unambiguous, that once a person has been issued a certificate of registration, the person is no longer subject to state regulation under the Code chapter so long as the federal license remains valid:

Other than obtaining the certificate of registration from the secretary [of agriculture], any dealer or commercial breeder and any person who

⁷⁶ Iowa Code § 162.11(3).

⁷⁷ Iowa Code § 162.11(4).

⁷⁸ Iowa Code § 162.11(5).

*operates a commercial kennel or public auction shall not be subject to further regulation under the provisions of this chapter.*⁷⁹

There could be a conflict in reading Code Sections 162.11 and 162.13 together. The later provision authorizes DALS to deny an application for a license or certificate of registration to "any public auction, boarding kennel, commercial kennel, research facility, pet shop, commercial breeder, or dealer" or revoke an issued license or certificate of registration to "the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, [or] research facility." As a matter of practice, DALS does not regulate or inspect a person who has been issued a federal license and state certificate of registration in lieu of a state license; in effect understanding that its regulatory authority extends to (1) boarding kennels and pet shops which must be issued a state license, (2) commercial kennels, commercial breeders, dealers, and public auctions which have been issued a state license and which may be required to be issued a federal license, and (3) pounds, animal shelters, and research facilities which have been issued a certificate of registration, but understanding that its regulatory authority does not extend to (4) commercial kennels, commercial breeders, dealers, and public auctions which have been issued a certificate of registration due to federal licensure.

5. License Fees. State-issued licenses and certificates of registration expire one year from date of issue unless revoked and may be renewed.⁸⁰ Similar to the federal system, pounds, animal shelters, and research facilities are not required to pay a registration fee. A fee is imposed upon persons issued a state license or issued a certificate of registration in lieu of a state license. Unlike the federal system, the fees are assessed per licensee or holder of a certificate of registration and not on sales volume or inventory. Fees collected by DALS are paid to the treasurer of state for deposit into the state General Fund.⁸¹

⁷⁹ Iowa Code § 162.11(2).

⁸⁰ Iowa Code §§ 162.3 through 162.10.

⁸¹ Iowa Code § 162.18.

IOWA LICENSE AND CERTIFICATE OF REGISTRATION FEES

Person	Amount	
	License	Certificate of Registration
Dealer ⁸²	\$100	\$20
Pet Shop ⁸³	\$50	-----
Commercial Breeder ⁸⁴	\$40	\$20
Commercial Kennel ⁸⁵	\$40	\$20
Public Auction ⁸⁶	\$40	\$20
Boarding Kennel ⁸⁷	\$30	-----
Privately Owned Pound that Sells Dogs or Cats ⁸⁸	-----	\$15

D. CONCLUSION

This memorandum discusses federal and state licensing and registration procedures, and does not explore other legal provisions that may affect persons involved in the handling and care of animals that are kept in facilities or commercially transported, and that are used for breeding, kenneling, commercial sale, adoption, exhibition, and research. Further issues include standards of care and recordkeeping requirements, enforcement, and seizure and penalties. For further assistance, contact Doug Adkisson (515) 281-3884.

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⁸² Iowa Code § 162.7.

⁸³ Iowa Code § 162.5.

⁸⁴ Iowa Code § 162.8.

⁸⁵ Iowa Code § 162.6.

⁸⁶ Iowa Code § 162.6.

⁸⁷ Iowa Code § 162.9.

⁸⁸ Iowa Code § 162.3.